

AMENDED IN ASSEMBLY JUNE 7, 2012

AMENDED IN SENATE APRIL 26, 2011

SENATE BILL

No. 204

Introduced by Senator Liu

February 8, 2011

An act to amend Sections 33000, 33030, 33031, 33032, 33111, 33112, and 33301 of, and to repeal Sections 33034, 33302, and 33303 of, the Education Code, relating to education governance. An act to amend Section 14528.56 of, and to add Sections 14528.57 and 14528.67 to, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Liu. ~~Education governance.~~ *Local alternative transportation improvement program.*

Under existing law, if the Department of Transportation determines that real property or an interest therein, previously or hereafter acquired by the state for highway purposes, is no longer necessary for those purposes, the Department of Transportation is authorized to sell, contract to sell, sell by trust deed, or exchange the real property or interest therein in the manner and upon terms, standards, and conditions established by the California Transportation Commission.

Existing law authorizes the commission, in cooperation with the regional transportation planning agencies, to prescribe study areas for analysis and evaluation by those agencies and guidelines for the preparation of the regional transportation plans.

Existing law, in order to resolve local transportation problems resulting from the infeasibility of planned state transportation facilities on certain state highway routes, authorizes specified cities and counties to develop and file with the commission a local alternative

transportation improvement program that addresses transportation problems and opportunities in the county that was to be served by the planned facilities. Existing law creates the Los Angeles County Metropolitan Transportation Authority (LACMTA) and makes it responsible for, among other things, the establishment of overall goals and objectives to achieve optimal transport service for the movement of goods and people on a countywide basis.

This bill would, for purposes of preserving the funding capacity for LACMTA to make transportation investment choices within the State Highway Route 710 Study Area, as defined, authorize LACMTA in consultation with the department, to develop and file with the commission a local alternative transportation improvement program that addresses transportation problems and opportunities in the State Highway Route 710 Study Area. The bill would require the commission to have the final authority regarding the content and approval of the local alternative transportation improvement program. The bill would require all proceeds from the sale of the specified excess properties, except as specified, to be allocated by the commission to fund the approved local alternative transportation improvement program, as specified.

Existing law imposes various requirements on these local alternative transportation improvement programs including that the department is required to maintain a specified account for each local alternative transportation improvement program into which it will deposit the funds derived from the sale of the respective excess properties. Existing law also requires a specified local alternative transportation improvement program to include various housing programs, including, but not limited to, relocation assistance, relocation advice and moving expenses, and replacement housing units.

This bill would make the local alternative transportation improvement program in the State Highway Route 710 Study Area subject to those account and deposit requirements and would authorize LACMTA, with the concurrence of the commission, to advance a project included in the local alternative transportation improvement program in the study area prior to the availability of sufficient funds, as specified. The bill would also make those housing program provisions applicable to the local alternative transportation improvement program in the State Highway Route 710 Study Area.

~~(1) Existing law establishes the State Board of Education to adopt policies, and to establish rules and regulations, not inconsistent with~~

~~the laws of the state, to govern the public elementary and secondary schools of the state. Existing law provides that the state board consists of 10 members, who are appointed by the Governor to 4-year terms with the advice and consent of $\frac{2}{3}$ of the Senate. Existing law also provides for the appointment by the Governor, with the advice and consent of $\frac{2}{3}$ of the Senate, of a student member to a single one-year term commencing on August 1. Existing law authorizes the state board to issue subpoenas to compel the attendance of witnesses before the board, or before any member of the board, in the same manner as any court in the state.~~

~~This bill would require that the 10 nonstudent appointees to the state board represent, and reside in, different geographical areas of the state, reflect the ethnic and gender diversity of the state's population, and represent the various disciplines active in the public education system.~~

~~The bill would eliminate the authority of the state board to establish statewide educational policy and issue rules and regulations for the governance of public elementary and secondary schools. The bill would instead provide that the state board would advise the Governor, Legislature, and Superintendent of Public Instruction on policy matters pertaining to elementary and secondary education, and would make annual recommendations to the Legislature regarding ways to improve the quality of public education throughout the state. The bill would specify that the state board would carry out only the duties and functions expressly granted to it by the statutes and constitution of the state.~~

~~The bill would eliminate the authority of the state board to issue subpoenas to compel the attendance of witnesses.~~

~~(2) Existing law requires the Superintendent of Public Instruction, among other things, to execute, under the direction of the State Board of Education, the policies decided upon by the state board. Existing law provides that the Superintendent of Public Instruction is the ex-officio Director of Education.~~

~~This bill would eliminate the requirement that the Superintendent of Public Instruction execute policies of the State Board of Education. The bill would instead define the function of the Superintendent as ensuring the delivery of high-quality education to the pupils of the state who attend preschool, kindergarten, and grades 1 to 12, inclusive. The bill would provide that the Superintendent would set policy for, supervise, and administer the State Department of Education.~~

~~The bill would provide that the Director of Education would be appointed by, and serve at the pleasure of, the Superintendent. The bill~~

would further provide that the Director of Education would perform all executive and administrative functions of the State Department of Education delegated to him or her by the Superintendent.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14528.56 of the Government Code is*
2 *amended to read:*

3 14528.56. The following shall pertain to local alternative
4 transportation improvement programs developed and approved
5 pursuant to Sections 14528.5~~and~~, 14528.55, *and 14528.57*:

6 (a) The department shall maintain a separate account in the
7 state's Special Deposit Fund for each approved local alternative
8 transportation improvement program into which it will deposit the
9 funds derived from the sale of the respective excess properties
10 pursuant to subdivision (c) of Section 14528.5~~and~~, subdivision
11 (c) of Section 14528.55, *and subdivision (c) of Section 14528.57*.
12 All proceeds received by the department from the sale of those
13 excess properties that are available pursuant to those subdivisions
14 for the respective local alternative transportation improvement
15 programs, less reimbursement for costs incurred by the department
16 for administration of each account, shall be deposited in each
17 respective account, along with all interest earnings generated by
18 the funds in the respective account.

19 (b) Funds in each account shall be available for expenditure by
20 the local agencies for projects designated in the respective local
21 alternative transportation improvement program approved by the
22 commission pursuant to Section 14528.5~~or~~, 14528.55, *or 14528.57*.

23 (c) This section applies only to State Highway Routes 84~~and~~,
24 238, *and 710*, and to the local alternative transportation programs
25 approved pursuant to Section 14528.5~~or~~, 14528.55, *or 14528.57*.

26 (d) Section 14528.8 does not apply to projects undertaken
27 pursuant to Section 14528.5~~or~~, 14528.55, *or 14528.57*.

28 (e) (1) A local jurisdiction may, with the concurrence of the
29 appropriate transportation planning agency, the commission, and
30 the department, advance a project included in the local alternative
31 transportation improvement programs *approved under Section*
32 *14528.5 or 14528.55* prior to the availability of sufficient funds

from the sale of respective excess properties, through the use of its own funds. A project advanced in this manner shall be deliverable by the state, or by the local jurisdiction pursuant to agreement, when proposed by the local jurisdiction. Advancement of a project or projects shall not change the priority for funding and delivery of all projects within each respective approved local alternative transportation improvement program.

(2) The Los Angeles County Metropolitan Transportation Authority (LACMTA) may, with the concurrence of the commission, advance a project included in the local alternative transportation improvement program approved under Section 14528.57 prior to availability of sufficient funds from the sale of the respective excess properties, through the use of its own funds or funds otherwise available to LACMTA, subject to such terms and conditions as are mutually agreeable to the commission and LACMTA.

(f) A local agency may enter into an agreement with the appropriate transportation planning agency, the department, and the commission to use its own funds to develop, purchase right-of-way for, and construct a transportation project within its jurisdiction if the project is one that is included in the respective local alternative transportation improvement program and is funded by the individual account established in the Special Deposit Fund pursuant to subdivision (a), and meets all of the following requirements:

(1) Pursuant to the agreement, and from funds allocated by the commission for the project when scheduled in the local alternative transportation improvement program, the department shall reimburse the local agency for the actual cost of constructing the project, including the acquisition of right-of-way. Interest or other debt service costs incurred by local agencies to finance right-of-way acquisition or construction for the project are not reimbursable. Reimbursement made to a local agency pursuant to this subdivision shall be made from the respective account established in the Special Deposit Fund.

(2) The amount actually reimbursed to the local agency under paragraph (1) shall be the amount expended by the local agency for right-of-way and construction. If the expenditure of local funds does not result in the completion of an operable segment of a transportation project, reimbursement shall be limited to the actual

1 amount expended by the local agency for right-of-way or partial
2 construction, with no escalation factor.

3 (3) Pursuant to the agreement, and from funds allocated by the
4 commission for the project when it was scheduled in the local
5 respective alternative transportation improvement program, the
6 department shall reimburse the local agency for the actual cost of
7 developing the project with local funds pursuant to this subdivision.
8 Reimbursement of project development costs shall not exceed 20
9 percent of estimated construction costs. In no case shall this
10 reimbursement exceed any lesser amount mutually agreed to by
11 the department, commission, and local agency.

12 (4) Reimbursements made to local agencies pursuant to this
13 section for expenditures of local voter-approved sales and use tax
14 revenues shall be used for the same purposes for which the
15 imposition of the sales and use tax is authorized.

16 (5) The commission, in consultation with the department and
17 local transportation officials, shall develop and adopt guidelines
18 to implement this subdivision.

19 (g) At the time of its approval of the respective local alternative
20 transportation improvement program, the commission, in
21 consultation with the department and representatives from regional
22 and local agencies, shall also incorporate, into the state
23 transportation improvement program guidelines, additional
24 guidelines specific to the local alternative transportation
25 improvement program. The additional guidelines shall include,
26 but need not be limited to, criteria for project applications,
27 estimation of costs, assessment of capability to complete the
28 project, allocation of funds to project phases, timely expenditure
29 of funds, management of changes to cost, scope, and schedules,
30 assessment of progress in implementing projects, and audit
31 requirements.

32 *SEC. 2. Section 14528.57 is added to the Government Code,*
33 *to read:*

34 *14528.57. (a) For purposes of preserving the funding capacity*
35 *for the Los Angeles County Metropolitan Transportation Authority*
36 *(LACMTA) to make transportation investment choices within the*
37 *State Highway Route 710 Study Area, LACMTA in consultation*
38 *with the department, acting as the transportation planning agency*
39 *having transportation planning and programming jurisdiction*
40 *over the cities and portions of the County of Los Angeles in the*

1 *State Highway Route 710 Study Area, may develop and file with*
2 *the commission a local alternative transportation improvement*
3 *program that addresses transportation problems and opportunities*
4 *in the State Highway Route 710 Study Area.*

5 *(b) The commission shall have the final authority regarding the*
6 *content and approval of the local alternative transportation*
7 *improvement program. However, the program content and*
8 *approval process shall be consistent with that process as previously*
9 *developed by the commission in implementing a local alternative*
10 *transportation program pursuant to Sections 14528.5 and*
11 *14528.55.*

12 *(c) All proceeds from the sale of the excess properties, less any*
13 *reimbursements due to the federal government and all costs*
14 *incurred in the sale of those excess properties, shall be allocated*
15 *by the commission to fund the approved local alternative*
16 *transportation improvement program and shall not be subject to*
17 *Sections 188 and 188.8 of the Streets and Highways Code. The*
18 *proceeds shall be used only for state highway purposes or for*
19 *projects in the local alternative transportation improvement*
20 *program that are also in the local voter-approved transportation*
21 *sales tax measure.*

22 *(d) For purposes of this section, “excess properties” means*
23 *those properties previously acquired but no longer required to*
24 *construct a new project in the State Highway Route 710 Study*
25 *Area.*

26 *(e) For purposes of this section, the “State Highway Route 710*
27 *Study Area” means the portion of the County of Los Angeles*
28 *identified through the scoping process for the State Highway Route*
29 *710 North Gap Closure Project environmental assessment.*

30 *SEC. 3. Section 14528.67 is added to the Government Code,*
31 *to read:*

32 *14528.67. A local alternative transportation improvement*
33 *program, approved pursuant to Section 14528.57, shall include*
34 *all of the following:*

35 *(a) A program to provide relocation assistance for residents*
36 *eligible for relocation assistance pursuant to Chapter 16*
37 *(commencing with Section 7260) of Division 7 of Title 1, and*
38 *guidelines adopted pursuant to Section 50460 of the Health and*
39 *Safety Code.*

1 (b) A program to provide relocation assistance for all lower
2 income households, regardless of their eligibility for assistance
3 pursuant to subdivision (a), who will be displaced from their
4 residences because of actions taken to finance or implement the
5 local alternative improvement transportation program, including
6 sale or removal of their residences. To be eligible for assistance,
7 lower income households shall have occupied their residence on
8 the date that the local alternative transportation improvement
9 program was approved by the commission. The program shall
10 comply with the requirements, except eligibility requirements, of
11 Chapter 16 (commencing with Section 7260) of Division 7 of Title
12 1, and with guidelines adopted pursuant to Section 50460 of the
13 Health and Safety Code.

14 (c) A program to provide all persons or families who are not
15 otherwise eligible for assistance pursuant to subdivisions (a) and
16 (b) with relocation advice and moving expenses, as defined in
17 Section 7261 and subdivisions (a) and (b) of Section 7262.

18 (d) A program to provide replacement housing units for persons
19 and families of low or moderate income at an affordable housing
20 cost. At a minimum, the program shall provide that the total
21 number of new units for persons or families of low or moderate
22 income to be provided shall be equal to or greater than the number
23 of units occupied by persons or families of low or moderate income
24 displaced by the local alternative transportation improvement
25 program, and that the total number of new housing units to be
26 provided for lower income households shall be equal to or greater
27 than the number of units occupied by lower income households
28 displaced by the local alternative transportation improvement
29 program. The number of units so provided shall be determined at
30 least one year prior to the date the commission approves the local
31 alternative transportation improvement program. If it is not
32 feasible to replace the total number of units required on surplus
33 public property, other types of property shall be used in order to
34 provide the replacement units. Replacement of the units shall be
35 completed utilizing funds other than those derived from the sale
36 of excess properties and shall be completed within four years of
37 the date the persons or families are displaced or, if unoccupied,
38 from the date of demolition or removal. Unoccupied units shall be
39 replaced in the same ratio as units occupied by persons and
40 families of low and moderate income in the right-of-way. It shall

1 *be an objective of the program that, where financially feasible,*
2 *the number of new housing units for persons and families of low*
3 *or moderate income shall be not less than 20 percent of all new*
4 *housing units developed on the aggregate surplus public property.*

5 *(e) For purposes of this section, the terms “affordable housing*
6 *cost,” “lower income households,” and “persons and families of*
7 *low or moderate income” shall be defined as provided in Division*
8 *31 (commencing with Section 50000) of the Health and Safety*
9 *Code.*

10 *(f) Unless specifically stated, this section shall in no way reduce*
11 *or limit any requirements for the provision of housing for persons*
12 *or families of low or moderate income as contained in any other*
13 *provision of law.*

14 *(g) No state highway account funds shall be expended for*
15 *planning or implementing the housing provisions of the local*
16 *alternative transportation improvement program that are required*
17 *to be carried out pursuant to subdivisions (b) to (d), inclusive.*

18 *(h) Neither the excess property nor the proceeds from the sale*
19 *of the excess property shall be used for housing purposes. The*
20 *excess property may be used for housing purposes after sale by*
21 *the department.*

22 ~~SECTION 1. The Legislature finds and declares all of the~~
23 ~~following:~~

24 ~~(a) President Obama has called on states to move forward~~
25 ~~aggressively on education reform. The approval by Congress of~~
26 ~~the Race to the Top competitive grant funds echoes this call, and~~
27 ~~funds will go to states that are leading the way with ambitious yet~~
28 ~~achievable plans for implementing coherent, compelling, and~~
29 ~~comprehensive education reform.~~

30 ~~(b) The United States House of Representatives has passed~~
31 ~~legislation that contains an Early Learning Challenge Fund, which~~
32 ~~is an \$8 billion, eight-year investment in early learning programs.~~

33 ~~(c) Several studies, including a 2007 report by the~~
34 ~~Superintendent of Public Instruction, have highlighted California’s~~
35 ~~persistent achievement gap among different demographic groups~~
36 ~~of pupils.~~

37 ~~(d) California has a high school completion rate of 75 percent.~~
38 ~~About 60 percent of California high school graduates enter~~
39 ~~community college or a four-year college.~~

1 ~~(e) Recent studies have criticized California's governance~~
2 ~~system for lacking transparency and being overly complex,~~
3 ~~inefficient, and ineffective.~~

4 ~~(f) In order for California to produce an educated population,~~
5 ~~make headway in closing the student achievement gap, and be~~
6 ~~competitive in seeking federal Race to the Top program and other~~
7 ~~federal education programs and improvement funds, the state must~~
8 ~~have an effective, functional, and streamlined governance system~~
9 ~~in place.~~

10 ~~SEC. 2. Section 33000 of the Education Code is amended to~~
11 ~~read:~~

12 ~~33000. (a) There is in the state government a State Board of~~
13 ~~Education, consisting of 10 members, who are appointed by the~~
14 ~~Governor with the advice and consent of two-thirds of the Senate.~~

15 ~~(b) Appointees to the state board shall do all of the following:~~

16 ~~(1) Represent and reside in different geographical regions of~~
17 ~~the state.~~

18 ~~(2) Reflect the ethnic and gender diversity of the state's~~
19 ~~population.~~

20 ~~(3) Represent the array of disciplines active in the public~~
21 ~~education system, including, but not necessarily limited to,~~
22 ~~teachers, principals, school district administrators and financial~~
23 ~~officers, charter school administrators, county offices of education,~~
24 ~~school district governing boards, classified employees, and parents.~~

25 ~~SEC. 3. Section 33030 of the Education Code is amended to~~
26 ~~read:~~

27 ~~33030. The board shall advise the Governor, Legislature, and~~
28 ~~Superintendent on policy matters pertaining to elementary and~~
29 ~~secondary education, and shall make annual recommendations to~~
30 ~~the Legislature regarding ways to improve the quality of public~~
31 ~~education throughout the state. The state board shall carry out~~
32 ~~duties and functions expressly granted to it by the statutes and~~
33 ~~constitution of this state. No further duties or functions shall be~~
34 ~~implied.~~

35 ~~SEC. 4. Section 33031 of the Education Code is amended to~~
36 ~~read:~~

37 ~~33031. (a) The state board shall adopt rules and regulations~~
38 ~~not inconsistent with the laws of this state for its own procedures.~~

1 ~~(b) The rules and regulations adopted by the state board under~~
2 ~~this section shall be published for distribution as soon as practicable~~
3 ~~after adoption.~~

4 ~~SEC. 5. Section 33032 of the Education Code is amended to~~
5 ~~read:~~

6 ~~33032. The state board shall study the educational conditions~~
7 ~~and needs of the state, and make recommendations for the~~
8 ~~improvement of the administration and efficiency of the public~~
9 ~~schools of the state. The state board shall report the results of its~~
10 ~~study, and any recommendations that it makes under this section,~~
11 ~~to the Governor in the report required by Section 33037.~~

12 ~~SEC. 6. Section 33034 of the Education Code is repealed.~~

13 ~~SEC. 7. Section 33111 of the Education Code is amended to~~
14 ~~read:~~

15 ~~33111. The Superintendent of Public Instruction shall ensure~~
16 ~~the delivery of high-quality education to the pupils of the state~~
17 ~~who attend preschool, kindergarten, and grades 1 to 12, inclusive.~~
18 ~~The responsibilities of the Superintendent shall include, but not~~
19 ~~necessarily be limited to, all of the following:~~

20 ~~(a) Establishing educational expectations for pupils.~~

21 ~~(b) Apportioning resources to schools.~~

22 ~~(c) Managing statewide educational and financial accountability~~
23 ~~programs.~~

24 ~~(d) Overseeing school district fiscal audit reviews.~~

25 ~~(e) Serving as the independent spokesperson for California's~~
26 ~~populace and pupils.~~

27 ~~(f) Facilitating educational accountability by administering and~~
28 ~~promoting the effective use of data to measure and improve pupil~~
29 ~~learning. Educational accountability shall include, but not~~
30 ~~necessarily be limited to, all of the following:~~

31 ~~(1) Measuring pupil and institutional performance to ensure~~
32 ~~adequate and equitable education and compliance with special~~
33 ~~education and civil rights law.~~

34 ~~(2) Monitoring the implementation of state and federal programs.~~

35 ~~(3) Identifying schools that fail to meet pupil achievement~~
36 ~~targets.~~

37 ~~(4) Defining and implementing intervention strategies for~~
38 ~~schools that fail to meet pupil achievement targets.~~

39 ~~SEC. 8. Section 33112 of the Education Code is amended to~~
40 ~~read:~~

1 ~~33112. The Superintendent shall:~~

2 ~~(a) Superintend the schools of this state.~~

3 ~~(b) Set policy for, supervise, and administer the department.~~

4 ~~(c) Prepare, have printed, and furnish to teachers and to all~~
5 ~~officers charged with the administration of the laws relating to the~~
6 ~~public schools the blank forms and books necessary to the~~
7 ~~discharge of their duties, including blank teachers' certificates to~~
8 ~~be used by county and city and county boards of education.~~

9 ~~(d) Authenticate with his or her official seal all drafts or orders~~
10 ~~drawn by him or her, and all papers and writings issued from his~~
11 ~~or her office.~~

12 ~~(e) Have bound, at the state bindery, all valuable school reports,~~
13 ~~journals, and documents in his or her office, or received by him~~
14 ~~or her.~~

15 ~~(f) Deliver over, at the expiration of his or her term of office,~~
16 ~~on demand, to his or her successor, all property, books, documents,~~
17 ~~maps, records, reports, and other papers belonging to his or her~~
18 ~~office, or which may have been received by him or her for the use~~
19 ~~of his or her office.~~

20 ~~(g) Designate and appoint, or terminate the designation and~~
21 ~~appointment of, any officer or employee of the department to have~~
22 ~~the powers and liabilities of a deputy, including designation~~
23 ~~pursuant to Section 7.9 of the Government Code, which~~
24 ~~appointment and termination of appointment shall be effective~~
25 ~~when filed in writing in the office of the Secretary of State.~~

26 ~~(h) Annually inform the governing boards of school districts,~~
27 ~~in a manner prescribed by the Superintendent, of the provisions~~
28 ~~of Section 60510.5.~~

29 ~~SEC. 9. Section 33301 of the Education Code is amended to~~
30 ~~read:~~

31 ~~33301. The Department of Education shall be administered~~
32 ~~through an executive officer known as the Director of Education;~~
33 ~~who shall be appointed by, and serve at the pleasure of, the~~
34 ~~Superintendent of Public Instruction. The Director of Education~~
35 ~~shall perform all executive and administrative functions of the~~
36 ~~department delegated to him or her by the Superintendent.~~

37 ~~SEC. 10. Section 33302 of the Education Code is repealed.~~

38 ~~SEC. 11. Section 33303 of the Education Code is repealed.~~

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